

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,	:	Case No. 3:11CV264
Plaintiff	:	Judge Timothy S. Black
v.	:	
2007 CADILLAC DTS,	:	
VIN #1G6KD57Y57U214610, et al.	:	
Defendants.	:	

AGREED ORDER AND DECREE OF FORFEITURE OF ALL DEFENDANTS

It is hereby stipulated by and between Plaintiff, United States of America and Claimants, SOPHIA A. SANFORD, RETHA D. GATES and KEN SMILEY dba KEN'S KARS, that:

- (1) the Defendants, 2007 Cadillac DTS, VIN #1G6KD57Y57U214610 (hereinafter the "2007 Cadillac") and 2004 Dodge Durango, VIN #1D8HB58D14F118029 (hereinafter the "2004 Dodge") shall be forfeited to the United States pursuant to 21 U.S.C. § 881(a)(4) and (6) and sold by the United States Marshal Service (hereinafter "USMS");
- (2) upon the sale of the Defendant 2007 Cadillac, the United States, or a duly authorized agent shall pay to Claimant, KEN'S KARS, the amount of \$4,525.51 with a per diem rate of \$2.13 from June 13, 2012 thereafter for each month after July 13, 2012, up to the available sale proceeds less the USMS and FBI expenses;
- (3) if the sale price of the Defendant 2007 Cadillac is less than the amount due to Claimant, KEN'S KARS, as set forth in paragraph 2, Claimant KEN'S KARS agrees that the amount of proceeds realized from the sale of the vehicle, less the USMS and FBI expenses shall constitute a full and final settlement of any and all of its claims against the vehicles and/or the United States, its agents, officers and employees;
- (4) KEN'S KARS or a representative thereof, will be permitted to purchase the Defendant 2007 Cadillac at the auto auction, if it deems the auction sales price of the Defendant to be too low;

- (5) upon the sale of the Defendant 2007 Cadillac and the Defendant 2004 Dodge, the United States, or a duly authorized agent, shall pay to Claimants, SOPHIA A. SANFORD and RETHA GATES, through their counsel, Daniel J. O'Brien, fifty percent (50%) of the sale proceeds remaining after payment of the lien on the 2007 Cadillac to Claimant Ken's Kars and payment of the USMS and FBI expenses related to the forfeiture including but not limited to the costs for storage, maintenance, notice, publication and sale of the vehicles;
- (6) Claimants agree that notwithstanding the United States' agreement to pay to Claimant Ken's Kars the lien of Ken's Kars, and agreement to return to Claimants SOPHIA A. SANFORD and RETHA GATES fifty percent (50%) of the sale proceeds less costs, the Federal Debt Collection Act of 1996, 31 U.S.C. §3716, and the Treasury Offset Program (TOP) require federal disbursing officials to offset federal payments to collect certain delinquent debts owed to the United States, and certain delinquent debts owed to states, including past-due child support enforced by states; thus the payments to the claimants, shall be made subject to any debt owed to the United States, any agency of the United States, or any other debt which the United States is required to collect;
- (7) Claimants shall release any and all claims which he may have against the Plaintiff, its agencies, and/or employees as well as local law enforcement agencies and their employees, arising out of the facts giving rise to this forfeiture action;
- (8) the Claimants shall bear their own costs, including any possible attorneys' fees, court costs, or other expenses of litigation;
- (9) the United States Attorney's Office shall bear its costs for attorneys' fees, court costs, and other expenses of litigation;
- (10) the Court will retain jurisdiction to enforce the terms of this Agreement;

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- (1) the Defendants, 2007 Cadillac DTS, VIN #1G6KD57Y57U214610 (hereinafter the "2007 Cadillac") and 2004 Dodge Durango, VIN #1D8HB58D14F118029 (hereinafter the "2004 Dodge") shall be forfeited to the United States pursuant to 21 U.S.C. § 881(a)(4) and (6) and sold by the United States Marshal Service (hereinafter "USMS");

- (2) upon the sale of Defendant 2007 Cadillac, the United States, or a duly authorized agent shall pay to Claimant, KEN'S KARS, the amount of \$4,525.51 as of June 13, 2012 with a per diem rate of \$2.13 thereafter, plus late fees of \$25.20 per month for each month after July 13, 2012, up to the available sale proceeds less the USMS' and FBI costs;
- (3) if the sale price of the Defendant 2007 Cadillac is less than the amount due to Claimant, KEN'S KARS, as set forth in paragraph 2, Claimant KEN'S KARS agrees that the amount of proceeds realized from the sale of the vehicle, less the USMS and FBI expenses shall constitute a full and final settlement of any and all of its claims against the vehicle and/or the United States, its agents, officers and employees;
- (4) KEN's KARS or a representative thereof, will be permitted to purchase the Defendant 2007 Cadillac at the auto auction, if it deems the auction sales price of the Defendant to be too low;
- (5) upon the sale of the Defendant 2007 Cadillac and the Defendant 2004 Dodge, the United States, or a duly authorized agent, shall pay to Claimants, SOPHIA A. SANFORD and RETHA GATES, through their counsel, Daniel J. O'Brien, fifty percent (50%) of the sale proceeds remaining after payment of the lien on the 2007 Cadillac to Claimant Ken's Kars and payment of the USMS and FBI expenses related to the forfeiture including but not limited to the costs for storage, maintenance, notice, publication and sale of the vehicles;
- (6) Claimants agree that notwithstanding the United States' agreement to pay to Claimant Ken's Kars the lien of Ken's Kars, and agreement to return to Claimants SOPHIA A. SANFORD and RETHA GATES fifty percent (50%) of the sale proceeds less costs, the Federal Debt Collection Act of 1996, 31 U.S.C. §3716, and the Treasury Offset Program (TOP) require federal disbursing officials to offset federal payments to collect certain delinquent debts owed to the United States, and certain delinquent debts owed to states, including past-due child support enforced by states; thus the payments to the claimants, shall be made subject to any debt owed to the United States, any agency of the United States, or any other debt which the United States is required to collect;
- (7) any and all claims which the Claimants may have against the Plaintiff, its agencies, and/or employees as well as local law enforcement agencies and their employees, arising out of the facts giving rise to this forfeiture action are hereby RELEASED;

- (8) the Claimants shall bear their own costs, including any possible attorneys' fees, court costs, or other expenses of litigation;
- (9) the Court will retain jurisdiction to enforce the terms of this Agreement; and
- (10) this case is terminated on the docket.



TIMOTHY S. BLACK
UNITED STATES DISTRICT JUDGE

CARTER M. STEWART
United States Attorney

s/Pamela M. Stanek
PAMELA M. STANEK (0030155)
Assistant United States Attorney

s/Daniel J. O'Brien per telephone authorization
DANIEL J. O'BRIEN (0031461)
Attorney for Claimants, Sophia Sanford and
Retha Gates

s/J. Joseph Walsh per telephone authorization
James Joseph Walsh (0003545)
for KEN SMILEY, JR. dba KEN'S KARS